

Attorney Docket No. 372155

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REMARKS

Claims 1-27, 29-83 are pending in the application. Claims 1, 39 and 52 are currently amended. Claims 28 has been previously cancelled. Claims 84-92 have been previously withdrawn without prejudice.

Claims 1, 39 and 52 have been amended to add further limitations that the crosslinker comprises a low molecular weight polyol. These amendments find support at lines 16-18 on page 4 and lines 16-17 on page 19 of the original Specification, wherein a low molecular weight polyol is disclosed as a crosslinker and defined as having a molecular weight less than half of the molecular weight of the vegetable oil-based polyol. None of these amendments add new matter to the application.

Claim Rejections – 35 U.S.C. §112 First Paragraph

Claims 1-27, 29-38 and 52-83 stand rejected under 35 U.S.C. §112 First Paragraph as failing to comply with the written description requirement. Applicant has amended Claims 1 and 52 by deleting the term "effective amount" and the language "different from said vegetable oil-based polyol for increasing at least one structural properties of the composition over polymer concrete composition made without said crosslinker, said structural properties selected from the group consisting of compressive strength, flexural modulus, tensile strength, and hardness of the composition." As a consequence of these amendments, the rejections under 35 U.S.C. §112 First Paragraph have become moot. Withdrawal of the rejections is respectfully requested.

Claim Rejections – Obviousness-type Double Patenting

Claims 39-50 stand rejected for obviousness-type double patenting over claims 1-5 of United States Patent 6,686,435 (the '435 Patent). The examiner recognizes that the present claims and the claims of the '435 Patent are not the same, but maintains that these claims are not patentably distinct from each other. Claim 39 has now been amended to recite an

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additional limitation that the crosslinker comprises a low molecular weight polyol. This amendment distinguishes the instant claims from the claims of the '435 patent.

As amended, the instant claims 39-50 now require that the claimed crosslinker be different from the vegetable oil polyol. This is so because the instant application defines "low molecular weight polyol" as a polyol having a molecule weight of less than one-half of the molecule weight of the vegetable oil-based polyol (See lines 16-17 on page 19 of the original Specification).


By contrast, the '435 patent does not claim the use of a crosslinker comprising a low molecular weight polyol. Indeed, the use of a low molecular weight polyol such as glycerine could not have been claimed in the '435 patent because such a use was not contemplated at the time of the invention disclosed therein. Even if the vegetable oil-based polyol described in the '435 patent is deemed to possess a secondary function as a crosslinker, it differs from the low molecular weight polyol as presently claimed. Thus, the instant claims are not merely obvious variations of the claims of the '435 patent. Withdrawal of the obviousness-type double patenting rejections of claims 39-50 over the '435 Patent is respectfully requested.

With the amendments currently presented, Applicant is respectfully seeking a Notice of Allowance in the next Office Communication. Applicants' attorney urges Examiner Niland to telephone if a conversation could expedite prosecution. The Commissioner is authorized to charge any required fees to deposit account 12-0600.

Respectfully submitted,

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